GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Tribal Welfare Department – Appeal Petitions filed by Smt. Golakoti Satya Radha Devi W/o Veerabhadra Rao, Occ: Technical Assistant, Andhra University, Visakhapatnam and Smt. Golakoti Satya Padmavathi Devi D/o late Satyanarayana, R/o Kakinada, East Godavari District, against the proceedings Ref. C6(M) 240/2002, dated 13.09.2005 of the District Collector, East Godavari- under section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (AP Act No. 16/1993) – Appeal Petitions dismissed – Orders – Issued.

TRIBAL WELFARE (CV2) DEPARTMENT

G.O.MS.No. 5 Dated: 08-01-2016
Read the following:

Ref:-1. Proceedings of the District Collector, East Godavari, Ref. C6(M) 240/2002, dated:13.09.2005.
2. Smt. Golakoti Satya Radha Devi W/o Veerabhadra Rao, Occ: Technical Assistant, Andhra University, Visakhapatnam, before the Government on 08.12.2005.
3. Govt. Memo. No.9989/CV.2/2005-1, S.W(CV.2) Dept., dt.19.12.2005.
4. Orders of the Hon'ble High Court, A.P., Hyderabad, in W.P.620/2006, Dated: 14.02.2006.
5. Smt. Golakoti Satya Padmavathi Devi D/o late Satyanarayana, R/o Kakinada, East Godavari District, before Minister(S.W), No.35/M(SW)/ 2006, dt.02.01.2006.
6. Govt. Memo. No. 148/CV.2/2006-1, S.W(CV.2) Dept., dt.17.01.2006.
7. From the District Collector, East Godavari, Lr.No.Ref.C6(M)436/2006, dt.03.10.2009.
8. Govt. Letter No.9989/CV.2/2005, S.W(CV.2) Dept., dt.11.06.2010.
9. Govt. Memo. No.9989/CV.2/2005, S.W(CV.2) Dept., dt.30.08.2013.
10. Govt. Memo. No.9989/CV.2/2005-1, S.W(CV.2) Dept., dt.10.04.2015 & 22.05.2015.

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ORDER:

In the reference 1st read above the District Collector, East Godavari has issued orders canceling ST- Kondakapu Caste Certificates of the Smt. Golakoti Satya Radha Devi W/o Veerabhadra Rao, and Smt. Golakoti Satya Padmavathi Devi D/o late Satyanarayana, East Godavari District, obtained from the then Tahsildar, Rajahmundry on 1969 and 1982.

2. In the reference 2nd read above, Smt. Golakoti Satya Radha Devi W/o Veerabhadra Rao, East Godavari District has filed an Appeal Petition before the Government, against the said Proceedings of the District Collector, East Godavari. After examining the said Appeal Petition, Government have admitted the said Appeal Petition and called for the parawise remarks and connected records from the District Collector, East Godavari in the reference 3rd read above.

3. In the reference 4th read above, Smt. Golakoti Satya Radha Devi W/o Veerabhadra Rao, East Godavari District, has filed Writ Petition No. 620/2006,against the Memo.No.9989/CV.2/2005-1, dated 19.12.2005, wherein the stay on the Proceedings of the District Collector, East Godavari prayed by her has been rejected by the Government. The Hon'ble High Court of AP while disposing off the said WP on 14.02.2006 has passed stay orders on the proceedings of the District Collector pending finalization of the Appeal and directed the Government to dispose off the Appeal as expeditiously as possible preferably within a period of four (4) months from the date of receipt of the order. But due to several administrative difficulties the matter could not be disposed before the said date, however, after giving notices from time to time to the Appellant through his Counsel the matter has been examined by the Appellate Authority.

[P.T.O]

5. In the reference 5th read above, Smt. Golakoti Satya Padmavathi Devi D/o late Satyanarayana, East Godavari District, another Appellant and sister of Smt. Golakoti Satya Radha Devi has filed an Appeal Petition before the Government, against the said Proceedings of the District Collector, East Godavari. After examining the said Appeal Petition, Government have admitted the Appeal Petition and issued stay orders on the said proceedings of the District Collector and called for the parawise remarks and connected records from the District Collector, East Godavari in the reference 6th read above.

6. In the reference 7th read above, the District Collector, East Godavari has furnished the Parawise remarks and connected records of on the said Appeal Petitions filed by Smt. Golakoti Satya Radha Devi W/o Veerabhadra Rao, and Smt. Golakoti Satya Padmavathi Devi D/o late Satyanarayana, East Godavari District.

7. The said Appeal Petition has been posted for hearing on 25.06.2010, 12.09.2013 23.05.2015 and finally on 13.06.2015 and the same has been informed to the Appellants and the Counsel for the Appellants and they were requested to attend for the hearing along with all Documentary Evidences/ Certificates in support of the Community claim, failing which, it will be construed that there is no claim what-so-ever in the matter and it will be decided based on the material available with the Government in the references 8th, 9th and 10th read above.

8. During the hearing, after examination of the records/ the copies of evidences/academic record/ grounds filed by the Appellants / the parawise remarks submitted by the District Collector, East Godavari and proceedings of the District Collector, East Godavari, dated 13.09.2005, it is observed that the Appellants have claimed that their forefathers were hails from Agency Area. They did not produce any evidence to prove that their parents/ grandparents belong to S.T. Community and also they have failed to prove that their father or their relatives belong to S.T. Community.

9. Further, it is observed that the acquittal of the Father and Brother of Appellant by Criminal Court in CC.No.13/1996 (By the Principal Judicial 1st class Magistrate, Rajahmundry dated:31.03.1967) for the failure of prosecuting agency to prove that the accused though Kapus fraudulently obtained Konda Kapu certificates, can't be treated as a judgment declaring them as "Konda Kapu". From the plain reading of section 2 © of the said Act together with Annexure-I of Fort St. George Gazette makes it very clear that the "Kapus" residing in agency tracts of East Godavari & Vizagapatam alone are hill tribes, who are notified in the schedule as "Konda Kapus". Even though lot of record is placed. There is no material to show that they belong to Konda Kapu Community.

10. Further, it is also observed that they have not produced any relevant documents/material in support of their ST-Konda Kapu Community claim except School Records which is generated based on the declaration given by the parents and hence it cannot be given any weightage. In fact several people have obtained ST certificates fraudulently only by showing the School certificates who obviously are depriving them "real down trodden people" of the said community, where by the object and intendment of the said legislation is being defeated.

11. Further the proceedings of the Collector which are impugned herein are in fact quite correct and the same having been passed infirm adherence to the A.P. Act, 16 of 1993 and Rules framed there under, can't be found faulty and there is no reason found for interference with the said order. All the relatives of Appellants are Kapus as disclosed in the enquiry of DLSC and other Officers. Hence, the Government is considered view that, they did not discharge their burden of proof as envisaged under Sec.6 of the AP Act 16 of 1993, much less with any cogent evidence, despite having been given lot of opportunities. Therefore the Collector rightly cancelled the certificate issued infavour of Petitioners. The Government found no reason to interfere with the order of the learned District Collector and the Appeal is divide of any merit. There is no infirmity found in the order of the District Collector, East Godavari and he has rightly passed the said order after following all the statutory requirements.

[Contd..]

12. The Government, in exercise of the powers conferred under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (Act No16 of 1993), decided that the Appeal Petitions filed by Smt. Golakoti Satya Radha Devi W/o Veerabhadra Rao, and Smt. Golakoti Satya Padmavathi Devi D/o late Satyanarayana, East Godavari District does not deserve any interference. Hence, Proceedings of the District Collector, East Godavari issued vide Ref. C6(M) 240/2002, dated 13.09.2005,is hereby upheld and the Appeal Petitions filed by Smt. Golakoti Satya Radha Devi W/o Veerabhadra Rao, and Smt. Golakoti Satya Padmavathi Devi D/o late Satyanarayana, East Godavari District are hereby dismissed.

10. Consequently, the District Collector, East Godavari shall take necessary action in the matter.

11. The records (containing Ref. C6(M) 240/2002, dated 13.09.2005, pages 339 CF & 17 NF) received from the District Collector, East Godavari , through the reference 7th read above, are returned herewith in original to the District Collector, East Godavari and he is requested to acknowledge the receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

Dr. A. VIDYA SAGAR
PRINCIPAL SECRETARY TO GOVERNMENT(TW)

To
The District Collector, East Godavari (w.e)
(with original records)

Smt. Golakoti Satya Radha Devi W/o Veerabhadra Rao,
R/o Occ:Technical Assistant, Department of Commerce and Management,
Andhra University, Visakhapatnam.

Sri G.V.Shivaji, Advocate 1-7-139/18, S.R.K.Nagar,
Golkonda 'X' Roads, Musheerabad, Hyderabad.

Smt. Golakoti Satya Padmavathi Devi, Medical Officer, ESI Dispensary,
Kakinada, East Godavari.

Sri Subba Reddy, Advocate, Flat No. 307, Sri Balaji Block, Aditya Arcadse,
Opp: V.S.T., Vidyanagar, Hyderabad.

Copy to:
The Director, TCR& TI, AP, Hyderabad.
P.S. to Hon'ble Minister(SWE&TWE)
P.S. to Principal Secretary(TW)
The Commissioner of Tribal Welfare, AP. Hyderabad.

// FORWARDED:: BY ORDER //

SECTION OFFICER